

37 Am. Jur. 2d Fraud and Deceit § 100

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Fraud and Deceit

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IV. False Representations

C. Matters of Futurity; Promises and Statements of Intention

2. Promises and Statements of Intention

b. Promises Made with Intention Not to Perform

§ 100. Qualifications of, and exceptions to, prevailing rule

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West's Key Number Digest

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Under certain factual circumstances, the rule that promises made with no intent to perform are fraudulent is not applied. For example, the promises are not fraudulent as far as a complainant is concerned where they are made not to him or her, but to a third person; hence, to be actionable, they must be made to a complainant, or in such a way as to show that the promisor intended them to be responsible for the complainant's ensuing action.¹ Also, if a written contract, to the promisee's knowledge, reveals the falsity of promises made, the promisee cannot invoke the rule that fraud may be predicated on deceitful promises.²

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Footnotes

¹ [Church v. Swetland](#), 243 F. 289 (C.C.A. 2d Cir. 1917).

² [Nelson v. Berkner](#), 139 Minn. 301, 166 N.W. 347 (1918).

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